

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 3:22-cr-00087

ALEX KAI TICK CHIN

MOTION FOR PROTECTIVE ORDER

Comes now the United States of America by Jennifer Rada Herrald, Assistant United States Attorney for the Southern District of West Virginia, and moves this Court for the entry of a Protective Order which will permit the defendant, his counsel, and a retained forensic computer expert to be provided with an unredacted copy of HSI's forensic report and extraction of a Samsung Galaxy S9 smartphone.

(1) On February 7, 2023, a federal grand jury returned a three-count Second Superseding Indictment against the defendant alleging violations of 18 U.S.C. §§ 2251(a), 2260A, and 2422(b). ECF No. 39. This indictment is based upon sexually explicit images of a known minor that were found on the defendant's Samsung Galaxy S9 smart phone.

(2) On March 24, 2023, Sebastian Joy, Esq., entered an appearance in the case on behalf of defendant, and prior counsel, David R. Bungard, Esq., moved to withdraw from the case.

(3) On November 30, 2022, the Court entered a protective order governing the handling of discovery related to minors and recordings. ECF No. 32. This order applied to "all persons acting in this case in a capacity described in 18 U.S.C. §§ 3509(d) and 3771(a) and Fed.R.Crim.P. 16(d)." ECF No. 32 at 1. The language of this order thus makes it applicable to Mr. Joy without an additional order being entered.

(4) On February 3, 2023, the Court entered a second protective order that set forth the terms and conditions for the defense forensic evaluation an unredacted copy of the computer forensic report for defendant's Samsung Galaxy 9 phone prepared by HSI. ECF No. 38. The unredacted forensic report contains images of suspected child pornography. Unlike the first protective order, this order was specifically signed by Mr. Bungard and would not be automatically applicable to Mr. Joy and his defense team.

(5) New defense counsel has requested similar access to the unredacted copy of the computer forensic report, in addition to the data extraction from the cell phone, in order to evaluate possible defenses to the charged offense.

(6) Counsel has prepared a proposed Protective Order which sets forth the same terms and conditions as in ECF No. 38 for the defense forensic evaluation of the identified forensic report which allegedly contains evidence of child pornography. It also adds that these terms and conditions apply to any data extraction from the phone as well. Mr. Joy has reviewed the proposed Protective Order and has indicated his approval of the same. A copy of the proposed Protective Order has been attached as Exhibit A.

For the reasons set forth herein, the parties request this Court to grant this Motion and enter the proposed Protective Order to allow the defense forensic review to proceed in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “Motion for Protective Order” has been electronically filed and service has been made on opposing counsel by electronic mail this the 30th day of March, 2023, to:

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